

**DECLARATION FOR UTILITY PATENT APPLICATION**

AS A BELOW-NAMED INVENTOR, I HEREBY DECLARE THAT:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: ENZYME CATALYZED THERAPEUTIC AGENTS, the specification of which is attached hereto unless the following box is checked:

☒ was filed on January 22, 1999 as United States Application Serial No. 09/235,961.

I HEREBY STATE THAT I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

I acknowledge the duty to disclose information which is material to the patentability as defined in 37 C.F.R. § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed:

Application No.	Country	Date of Filing (day/month/year)	Priority Claimed?
			<input type="checkbox"/> Yes <input type="checkbox"/> No

I hereby claim benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Serial No.	Filing Date
60/072,264	01/23/98
60/076,950	03/05/98
60/108,634	11/16/98

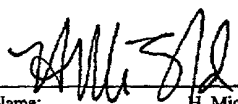
I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to

patentability as defined in 37 C.F.R. § 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

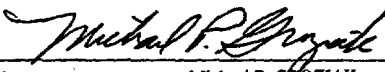
Application Serial No.	Filing Date	Status
		<input type="checkbox"/> Patented <input type="checkbox"/> Pending <input type="checkbox"/> Abandoned

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

3/29/99  
Date

  
Name: H. Michael SHEPARD  
Residence: Rancho Santa Fe, California  
Citizenship: U.S.A.  
Post Office Address: 16825 Via de Santa Fe, Rancho Santa Fe, CA 92067

4-01-99  
Date

  
Name: Michael P. GROZIAK  
Residence: Palo Alto, California  
Citizenship: U.S.A.  
Post Office Address: 153 Primrose Way, Palo Alto, CA 94303-3047

ASSIGNMENT  
JOINT

THIS ASSIGNMENT, by H. Michael Shepard and Michael P. Groziak (hereinafter referred to as the assignors), residing at 16825 via de Santa Fe, Rancho Santa Fe, California 92067 and 153 Primrose Way, Palo Alto, CA 94303-3047, respectively, witnesseth:

WHEREAS, said assignors have invented certain new and useful improvements in ENZYME CATALYZED THERAPEUTIC AGENTS, set forth in an application for Letters Patent of the United States, bearing Serial No. 09/235,961 and filed on January 22, 1999; and

WHEREAS, NewBiotics, Inc., a corporation duly organized under and pursuant to the laws of California and having its principal place of business at 11760 Sorrento Valley Road, Suite R, San Diego, CA 92121 (hereinafter referred to as the assignee) is desirous of acquiring the entire right, title and interest in and to said inventions and said application for Letters Patent of the United States, and in and to any Letters Patent or Patents, United States or foreign, to be obtained therefor and thereon:


NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and sufficient consideration, the receipt of which is hereby acknowledged, said assignors have sold, assigned, transferred and set over, and by these presents does sell, assign, transfer and set over, unto said assignee, its successors, legal representatives and assigns, the entire right, title and interest in and to the above-mentioned inventions, application for Letters Patent, and any and all Letters Patent or Patents in the United States of America and all foreign countries which may be granted therefor and thereon, and in and to any and all divisions, continuations and continuations-in-part of said application, or reissues or extensions of said Letters Patent or Patents, and all rights under the International Convention for the Protection of Industrial Property, the same to be held and enjoyed by said assignee, for its own use and the use of its successors, legal representatives and assigns, to the full end of the term or terms for which Letters Patent or Patents may be granted, as fully and entirely as the same would have been held and enjoyed by the assignors, had this sale and assignment not been made.

AND for the same consideration, said assignors hereby covenant and agree to and with said assignee its successors, legal representatives and assigns, that, at the time of execution and delivery of these presents, said assignors are the sole and lawful owners of the entire right, title and interest in and to said inventions and the application for Letters Patent above-mentioned, and that the same are unencumbered and that said assignors have good and full right and lawful authority to sell and convey the same in the manner herein set forth.

AND for the same consideration, said assignors hereby covenant and agree to and with said assignee, its successors, legal representatives and assigns, that said assignors will, whenever counsel of said assignee, or the counsel of its successors, legal representatives and assigns, shall advise that any proceeding in connection with said inventions, or said application for Letters Patent, or any proceeding in connection with Letters Patent for said inventions in any country, including interference proceedings, is lawful and desirable, or that any division, continuation or continuation-in-part of any application for Letters Patent or any reissue or extension of any Letters Patent, to be obtained thereon, is lawful and desirable, sign all papers and documents, take all lawful oaths, and do all acts necessary or required to be done for the procurement, maintenance, enforcement and defense of Letters Patent for said inventions, without charge to said assignee, its successors, legal representatives and assigns, but at the cost and expense of said assignee, its successors, legal representatives and assigns.

AND said assignors hereby request the Commissioner of Patents to issue said Letters Patent of the United States to said assignee as the assignee of said inventions and the Letters Patent to be issued thereon for the sole use of said assignee, its successors, legal representatives and assigns.

3/29/99  
Date

  
H. Michael SHEPARD

4.1.99  
Date

  
Michael P. GROZIAK

PATENT  
Docket No. 366482000401

## CERTIFICATE OF MAILING BY "FIRST CLASS MAIL"

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
Assistant Commissioner for Patents, Washington, D.C. 20231, on April 22, 1999.

  
Jimmy Nguyen

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

H. Michael Shepard and Michael P.  
Groziak

Serial No.: 09/235,961

Filing Date: January 22, 1999

For: ENZYME CATALYZED  
THERAPEUTIC AGENTS

Examiner: Unassigned

Group Art Unit: 1623

PROSECUTION BY ASSIGNEE AND POWER OF ATTORNEY  
UNDER 37 C.F.R. § 3.71Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

NewBiotics, Inc., the assignee of the entire right, title and interest in this patent application, under 37 C.F.R. § 3.71 hereby appoints:

Mani Adeli (Reg No. 39,585)  
Erwin J. Basinski (Reg No. 34,773)  
Paula A. Borden (Reg No. 42,344)  
Barry E. Bretschneider (Reg No. 28,055)  
Alan W. Cannon (Reg No. 34,977)  
Robert K. Cerpa (Reg No. 39,933)  
Niki D. Cox (Reg No. 42,446)  
E. Victor Donahue (Reg No. 35,492)  
Sean M. Fitzgerald (Reg No. 42,537)  
Hector Gallegos (Reg No. 40,614)  
Charles D. Holland (Reg No. 35,196)

Sanjay Bagade (Reg No. 42,280)  
Frank P. Becking (Reg No. 42,309)  
Sean Brennan (Reg No. 39,917)  
Nicholas Buffinger (Reg No. 39,124)  
Mark R. Carter (Reg No. 39,131)  
Thomas E. Ciotti (Reg No. 21,013)  
Raj S. Davé (Reg No. 42,465)  
Stephen C. Durant (Reg No. 31,506)  
Cheryl L. Franke (Reg No. P-44,113)  
Douglas Hodder (Reg No. 41,840)  
Madeline I. Johnston (Reg No. 36,174)

pa-363269

Richard D. Jordan (Reg No. 33,519)  
Ararat Kapouytian (Reg No. 40,044)  
Antoinette F. Konski (Reg No. 34,202)  
Susan K. Lehnhardt (Reg No. 33,943)  
David C. Lundmark (Reg No. 42,815)  
Thomas D. Mays (Reg No. 34,524)  
Kate H. Murashige (Reg No. 29,959)  
Catherine M. Polizzi (Reg No. 40,130)  
Robert Saltzberg (Reg No. 36,910)  
Debra A. Shetka (Reg No. 33,309)  
E. Thomas Wheelock (Reg No. 28,825)  
Karen K. Wong (Reg No. P-44,409)

Cindy S. Kaplan (Reg No. 40,043)  
Phanesh B. Koneru (Reg No. 40,053)  
Jung-Hua Kuo (Reg No. 41,918)  
Wen Liu (Reg No. 32,822)  
Harry J. Macey (Reg No. 32,818)  
Gladys H. Monroy (Reg No. 32,430)  
Dahna S. Pasternak (Reg No. 41,411)  
William C. Revelos (Reg No. 42,101)  
J. Michael Schiff (Reg No. 40,253)  
Lee K. Tan (Reg No. 39,447)  
Thomas G. Wiseman (Reg No. 35,046)  
Frank Wu (Reg No. 41,386)

all of Morrison & Foerster LLP, 755 Page Mill Road, Palo Alto, California 94304-1018,  
telephone (650) 813-5600, to prosecute this application and transact all matters in the United  
States Patent and Trademark Office connected therewith, said appointment to be to the exclusion  
of the inventors and their attorneys in accordance with the provisions of 37 C.F.R. § 3.71.

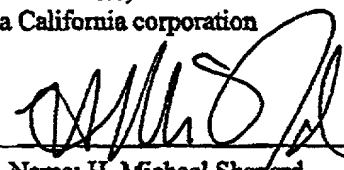
Please direct all written communications relative to this application to:

Antoinette F. Konski, Esq.  
Morrison & Foerster LLP  
755 Page Mill Road  
Palo Alto, California 94304-1018

Please direct all telephone communications to Antoinette F. Konski at (650) 813-5730.

NewBiotics, Inc.  
a California corporation

Dated: 4/2, 1999

  
Name: H. Michael Shepard  
Title: Chief Scientific Officer  
Address: 11760 Sorrento Valley Road, Suite R  
San Diego, CA 92121

Applicant/Patentee: H. Michael Shepard and Michael P. Groziak  
 Serial No./Patent No.: 09/235,961  
 Filed on/Issued: January 22, 1999  
 For: ENZYME CATALYZED THERAPEUTIC AGENTS

Docket No.: 366482000401

**VERIFIED STATEMENT CLAIMING SMALL ENTITY STATUS**  
**37 C.F.R. §§ 1.9(f) AND 1.27(e) — SMALL BUSINESS CONCERN**

I hereby declare that I am

- ☐ the owner of the small business concern identified below:  
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: NewBiotics, Inc.

ADDRESS OF CONCERN: 11760 Sorrento Valley Road, Suite R, San Diego, CA 92121

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 C.F.R. § 121.12, and reproduced in 37 C.F.R. § 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled ENZYME CATALYZED THERAPEUTIC AGENTS by inventor(s) H. Michael Shepard and Michael P. Groziak described in

- ☐ the specification filed herewith with title as listed above.  
☒ the application identified above.  
☐ the patent identified above.

If the rights held by the above identified business concern are not exclusive, each individual, concern or organization having rights in the invention must file separate verified statements averring to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 C.F.R. § 1.9(e) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 C.F.R. § 1.9(d), or a nonprofit organization under 37 C.F.R. § 1.9(e).

Each person, concern or organization having any rights in the invention is listed below:

- ☒ no such person, concern, or organization exists.  
☐ each such person, concern or organization is listed below.

NAME	ADDRESS	TYPE
		<input type="checkbox"/> Individual <input type="checkbox"/> Small Business Concern <input type="checkbox"/> Nonprofit Organization

Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 C.F.R. § 1.27)

I acknowledge the duty to file, in this application or patent, notification or any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. § 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: H. Michael Shepard  
 TITLE OF PERSON IF OTHER THAN OWNER: Chief Scientific Officer  
 ADDRESS OF PERSON SIGNING: 11760 Sorrento Valley Road, Suite R, San Diego, CA 92121

SIGNATURE: 

DATE: 4/2/99